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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,976	10/10/2003	George P. Hansen	TRIA:007CP1	2973
7590 07/21/2005 O'KEEFE, EGAN & PETERMAN, LLP Building C, Suite 200 1101 Capital of Texas Highway South Austin, TX 78746			EXAMINER SELLERS, ROBERT E	
			ART UNIT 1712	PAPER NUMBER

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/683,976

Applicant(s)

HANSEN ET AL.

Examiner

Robert Sellers

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 115-127 and 173-190 is/are pending in the application.
- 4a) Of the above claim(s) 175-190 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 115-127 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 175-190 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 1, 2005. The species exemplified in the topcoat of Table 1b on page 19 of the specification does not contain the moisture penetration inhibitor denoted in independent claim 175 which is shown in the primer compositions of Table 1a on page 19 and Table 2a on page 22.

1. The glass fiber of claim 115, line 6 characterized as both a thixotrope and impact toughening agent is described on page 15, lines 22-23.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 115-118 and 120-127 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft et al. Patent No. 4,760,103 in view of (Eadara Patent No. 5,198,065, or Japanese Patent No. 6-145630) and (O'Brill Patent No. 4,172,063 or Chinese Patent No. 1,057,849).

2. Kraft et al. (cols. 3-4, Formula No. 3) shows a nonskid coating formulation comprising an elected species of bisphenol A diglycidyl ether (Epon 828), an elected species of a titanium dioxide pigment, aluminum oxide aggregate, an amidoamine curing agent and an epoxy-terminated elastomeric acrylonitrile-butadiene copolymer (col. 6, lines 11-16, Kelpoxy G293-100).

3. The acrylonitrile-butadiene copolymer is epoxy-terminated which falls within the epoxide-containing toughening agent, and elastomeric which is within the ambit of the rubber toughening agent.

4. If the claimed epoxide-containing toughening agent and rubber toughening agent are considered as separate entities, the following rationale applies.

Eadara (col. 1, lines 34-51) espouses a composition comprising a primer and an adhesive component prepared from a diglycidyl ether of bisphenol A, a filler such as aluminum oxide (col. 2, lines 37-40) and an epoxy-terminated polysulfide as a flexibilizer (col. 2, lines 51-60). The Japanese patent (abstracts) establishes the use of both a polysulfide-modified epoxy resin and a carboxy-modified acrylonitrile-butadiene rubber in a bisphenol A epoxy resin formulation along with curing agent such as an aromatic amine (translation, page 3, paragraph 15) and an inorganic flame retarder such as the elected species of antimony oxide (page 3, paragraph 16).

5. It would have been obvious to blend the bisphenol A diglycidyl ether of Kraft et al. with a combination of an epoxy-terminated polysulfide flexibilizer of Eadara and the Japanese patent, together with the carboxy-modified acrylonitrile-butadiene flexibilizer of the Japanese patent in order to optimize the flexibility.

6. The claimed glass fiber is not recited. Kraft et al. is open to the inclusion of fiber fillers in column 1, line 51. O'Brill sets forth a non-slip coating (col. 3, lines 21-23) containing sand and glass fibers which provides great tensile strength, cracking and peeling resistance (col. 2, lines 36-46) as well as impact resistance and shrinkage prevention (col. 3, lines 21-25). The Chinese patent confirms the employment of glass fibers in a topcoat obtained from an epoxy resin, polysulfide rubber and polyamide.

7. It would have been obvious to utilize the glass fibers of O'Brill and the Chinese patent as the fiber filler of Kraft et al. in order to improve the tensile strength, cracking and peeling resistance, impact resistance and prevention of shrinkage.

8. The required presence of the fire retardant of claim 122 as elected is not recited. It would have been obvious to incorporate the antimony oxide of the Japanese patent in an amount within the claimed parameters in order to impart flame retardance to the coating.

Claim 119 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 115-118 and 120-127 hereinabove, and further in view of Stahovic et al. Patent No. 5,990,234.

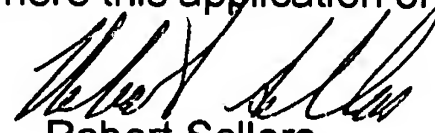
9. Kraft et al. does not recite the claimed ultraviolet light stabilizer required in claim 119. Stahovic et al. discloses a non-skid coating comprising a polymer, particles and an ultraviolet light absorber (col. 2, lines 35-42) such as a calculated amount of 4.4% by weight of the elected species of bis(1,2,2,6,6-pentamethyl-4-piperidiny) sebacate (col. 4, lines 21-22).

10. It would have been obvious to add the ultraviolet light stabilizer of Stahovic et al. within the exemplified level in order to impart stability to ultraviolet light.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Henry et al. Patent No. 5,494,729 teaches non-skid coating (col. 1, lines 6-11) including an epoxy-terminated polysulfide, titanium dioxide and isophorne diamine (col. 4, lines 6-11, an elected species of amine curing agent).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Sellers whose telephone number is (571) 272-1093. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Robert Sellers
Primary Examiner
Art Unit 1712